IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 17121 of 2004

Between:

G. GOPAL, S/o. G. Papanna,
Mahaboobnagar Depot, R/o. Boyapalli,

Mahaboobnagar (M) & District.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Mahaboobnagar Region,

Mahaboobnagar.
2 The Depot Manager, APSRTC, Mahaboobnagar.
3 The Secretary, APSRTC Staff Retirement Benefits Scheme
Musheerabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in recovering the outstanding due amount of the loanee namely, B.Gopal, E-73690, Driver from the Petitioner's Salary without proceeding to recover from the loanee as illegal, unjust, without jurisdiction and as such liable to be set with a consequential direction to the respondents herein to refund the amount recovered from the salary of the petitioner from 2-7-1999 to till date along with interest forthwith

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the stage of admission made the following:

HONOURABLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.17121 OF 2004

ORDER:

The petitioner stood as a surety for one of the employees for availing a special HBA loan of Rs.1,20,000/-. The borrower committed default in payment of the amount on account of his removal from service. The respondent-Corporation proceeded against the petitioner for recovery of the amount by way of deducting from his salary on the ground that the liability of the petitioner as a surety is co-extensive with the liability of the borrower. The petitioner is not disowning the liability, but the contention of the petitioner is that since the principal borrower was re-instated to service through the proceedings dated 21.06.2001, it would be appropriate for the respondents to proceed against the borrower for the recovery of the amount instead of continuing to deduct the amount from the salary of the petitioner.

2. Since the liability of the petitioner is not extinguished, there cannot be any specific direction for stopping the recovery of the loan amount from the petitioner. The petitioner represents that he will be put to great loss, if the amount is directed to be recovered from him leaving the principal borrower from the liability.

3. Having regard to the circumstances, the petitioner is at liberty to make an application to the third respondent requesting to recover the loan amount due to the respondents from the salary of the borrower, and on making such a representation by the petitioner, the third respondent shall consider the same and pass appropriate orders at the earliest regarding the request of the petitioner for the recovery of the loan amount from the salary of the borrower by name B.Gopal, who is working as a Driver in the respondent-Corporation.

4. Accordingly, this writ petition is disposed of. No order as to costs.

Dr. G.YETHIRAJULU, J

18th November, 2004

SKM

TO

1 The Regional Manager, APSRTC, Mahaboobnagar Region,

Mahaboobnagar.
2 The Depot Manager, APSRTC, Mahaboobnagar.
3 The Secretary, APSRTC Staff Retirement Benefits Scheme
Musheerabad, Hyderabad.

4 Two C.D. Copies.